

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

RICHARD E. GURULE,

Petitioner,

v.

SUE WASHBURN,

Respondent.

No. 2:20-cv-01115-CL

ORDER

AIKEN, District Judge.

Magistrate Judge Mark D. Clarke has filed a Findings and Recommendation (“F&R”) recommending that the First Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 be denied. ECF No. 39. Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Petitioner has filed Objections, ECF No. 41, and Respondent has filed a Response, ECF No. 42. The Court has reviewed the F&R, the Objections, and the file of the case and finds no error.

The F&R is therefore ADOPTED and the First Amended Petition for Writ of Habeas Corpus, ECF No. 18, is DENIED and this case is DISMISSED with prejudice. The Court declines to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

It is so ORDERED and DATED this 9th day of June 2022.

/s/Ann Aiken
ANN AIKEN
United States District Judge